

TINJAUAN YURIDIS TERHADAP PERBUATAN MELAWAN HUKUM DALAM JUAL BELI RUMAH DAN TANAH

**(Studi Putusan Pengadilan Negeri Blambangan Umpu Nomor
24/Pdt.G/2023/PN.Bbu)**

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ABSTRAK

Tanah sering menjadi objek sengketa, terutama dalam kasus jual beli tanpa alas hak yang merugikan pemilik sah, seperti dalam Putusan Nomor 24/Pdt.G/2023/PN.Bbu terkait jual beli tanah dan bangunan tanpa izin pemilik sah. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan kasus, perundang-undangan, dan konsep. Data sekunder dianalisis secara preskriptif melalui studi kepustakaan dan dianalisis secara normatif kualitatif serta disajikan dalam teks naratif. Tujuan penelitian ini adalah mengetahui pengaturan jual beli rumah dan tanah dalam hukum positif Indonesia serta penerapan unsur perbuatan melawan hukum berdasarkan KUH Perdata. Hasil menunjukkan bahwa jual beli pada umumnya diatur dalam Pasal 1457 KUH Perdata dengan memperhatikan Pasal 1320 KUH Perdata mengenai syarat sah perjanjian. Mengenai jual beli hak atas tanah dan rumah diatur dalam UU Nomor 5 Tahun 1960 tentang UUPA dan PP Nomor 24 Tahun 1997 yang mensyaratkan peralihan hak milik dilakukan di hadapan PPAT sebagai pejabat berwenang dan mengenai rumah yang ada di atasnya sekaligus disepakati di hadapan PPAT. Majelis Hakim mengabulkan gugatan ganti rugi sesuai Pasal 1365 KUH Perdata karena perbuatan melawan hukum yakni melanggar hak subjektif orang lain yakni jual beli tanpa izin dari Pemilik (Penggugat) yang mengakibatkan Penggugat tidak dapat menempati rumahnya, adanya kesalahan yaitu dengan sengaja menjual rumah dan tanah Penggugat padahal hanya boleh menempati saja, adanya kerugian berupa Penggugat tidak dapat menempati rumahnya, dan bahwa kerugian tersebut merupakan akibat dari perbuatan Tergugat melakukan Jual Beli tanpa izin Penggugat. Dengan demikian, gugatan ganti kerugian yang dikabulkan adalah hanya untuk meninggalkan obyek sengketa.

Kata Kunci: *Perbuatan Melawan Hukum, Jual Beli Tanah, Tanpa Hak.*

**JURIDICAL REVIEW OF UNLAWFUL ACTS IN THE SALE AND
PURCHASE OF HOUSES AND LAND**

**(Study of the Decision of the Blambangan Umpu District Court Number
24/Pdt.G/2023/PN.Bbu)**

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ABSTRACT

Land is often the object of disputes, especially in cases of buying and selling without legal title that harms the legal owner, such as in Decision Number 24/Pdt.G/2023/PN.Bbu related to the sale and purchase of land and buildings without the permission of the legal owner. This research uses a normative juridical method with a case, legislative, and conceptual approach. Secondary data is analyzed prescriptively through literature study and analyzed normatively qualitatively and presented in narrative text. The purpose of this study is to determine the regulation of the sale and purchase of houses and land in Indonesian positive law and the application of the elements of unlawful acts based on the Civil Code. The results show that buying and selling is generally regulated in Article 1457 of the Civil Code with due regard to Article 1320 of the Civil Code regarding the legal requirements of the agreement. Regarding the sale and purchase of land and house rights, it is regulated in Law Number 5 of 1960 concerning UUPA and PP Number 24 of 1997 which requires the transfer of property rights to be carried out in the presence of a PPAT as an authorized official and regarding the house above it is also agreed upon in front of a PPAT. The Panel of Judges granted the claim for compensation in accordance with Article 1365 of the Civil Code because of the tortious act of violating the subjective rights of others, namely the sale and purchase without the permission of the Owner (Plaintiff) which resulted in the Plaintiff not being able to occupy his house, the existence of fault, namely deliberately selling the Plaintiff's house and land when it was only allowed to occupy it, the existence of a loss in the form of the Plaintiff not being able to occupy his house, and that the loss was the result of the Defendant's act of selling without the Plaintiff's permission. Thus, the compensation claim that was granted was only for leaving the disputed object.

Keywords: Unlawful Acts, Sale and Purchase of Land, Without Rights.